

Court No. - 8

Case :- WRIT - C No. - 18911 of 2020

Petitioner :- Ravindra Kumar Mishra @ Nanke

Respondent :- State Of U.P. Thru. Secy. Home Lucknow And Ors.

Counsel for Petitioner :- Anoop Kumar Upadhyay

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Bhatia,J.

1. Heard learned Counsel for the petitioner and learned Standing Counsel.

2. The present petition has been filed challenging an order dated 26.09.2019 whereby the arm license of the petitioner was cancelled as well as the order dated 16.09.2020 whereby the appeal was dismissed.

3. The facts in brief are that the petitioner was granted an arm license bearing No.2681. Subsequently, the petitioner was implicated in Case Crime No.470 of 2018, under Sections 147, 323, 504, 506, 352 IPC read with Section 3(1)(5)(Dha) of the SC/ST Act, and in Case Crime No.940 of 2018, under Sections 323, 504, 506, 307 IPC and based upon the implication of the petitioner with the offence in question, the petitioner was issued a show cause notice proposing to cancel the arm license granted to him. The petitioner denied the said show cause notice, however, based upon the said two cases, the arm license of the petitioner was cancelled and an appeal preferred against the same was also dismissed by means of the impugned order.

4. The contention of the Counsel for the petitioner is that in both the said first information reports, there were no allegation of misuse of firearm by the petitioner. Both the first information reports are on record as Annexure-4 to the writ petition. In the light of the said submissions, the Counsel for the petitioner argues that once no allegation with regard to misuse of arm are levelled against the license holder, recourse to Section 17(3) for cancellation of the arms license cannot be taken. He places reliance on the judgments of this Court in the cases of ***Suneel vs State of U.P. and others, decided on 03.02.2020*** (Writ-C No.42274 of 2019); ***Ram Prasad vs Commissioner and others, decided on 07.02.2020*** (Writ-C No.56378 of 2006) and ***Rajeev Kumar @ Monu Shukla vs State of U.P. and others, decided on 14.09.2022*** (Writ-C No.31473 of 2019).

5. Learned Standing Counsel on the other hand argues that the arm license of the petitioner was rightly cancelled as the petitioner was implicated in two criminal cases in question.

6. In view of the rival submissions as recorded above, the power to cancel arm license exists when the condition specified under Section 17 of the Arms Act are invocable and material should also exist to form a view that the restrictions imposed under Section 17(3) exist.

7. In the present case, the only allegation of involvement is against the petitioner in both the offences in question. There is no material on record to demonstrate as to how the said implication can have any effect on public peace or public safety. The allegations against the petitioner are of law and order problem, as such, no material exists in the impugned orders to take action as has been done against the petitioner. Similar view has also been taken by this Court in the abovesaid referred judgments.

8. In view thereof, the impugned orders 26.09.2019 and the order dated 16.09.2020 are quashed with directions that the license of the petitioner shall stand restored.

9. The writ petition is ***allowed***.

Order Date :- 28.11.2023

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